IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14947 of 2005

Between:

Kotha China Ramana Rao, S/o. Venkata Ramana,
R/o. Mayuri Apartments, Mayuri Marg, Begumpet, Hyderabad.

..... PETITIONER

AND

Kapra Municipality, Rep. by its Commissioner,

R.R.District Marg.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the order of the respondent made in C.O. No.G/UC/MCK, dt. 10.5.2005 in seeking to demolish the building in plot Nos. 275 and 276 in Sy. Nos. 13 and 14 of Hasthinapuri Colony, Ammuguda Village, Kapra Municipality, R.R.District, as arbitrary, illegal, colourable exercise of power, violative of Principles of natural justice, violative of the procedure prescribed under the A.P. Municipalities Act1965 and consequently direct the respondent not to demolish the said building.

Counsel for the Petitioner: MR.C.V.R.RUDRA PRASAD
Counsel for the Respondent: MR.P.RADHAKRISHNA

The Court made the following :

ORDER:

The case of the petitioner is that he is the owner of plot Nos. 275 and 276 of Hasthinapuri Colony, Kapra Municipality. The petitioner obtained permission for construction of residential complex valid upto 27.11.2007 after paying Rs.1,82,885/- to the respondents. While so, he started construction of the building. While so, the respondent issued provisional notice dated 25.4.2005 directing the petitioner to furnish the construction permission within seven days from the date of receipt thereof and to stop construction, to which he submitted explanation with relevant documents. He further submitted that there is no deviation as pointed in the explanation, but however, it was pointed out to the respondent that due to Vaasthu reasons, the building is constructed leaving less than three inches on the rear side and same area was left on the front side of the building. The respondent, on 10.5.2005 issued the impugned confirmation order, directing removal of the alleged unauthorized construction within a period of seven days. The petitioner, explaining detailed reasons, submitted explanation on 20.5.2005, which is pending.

Prima facie, the impugned order does not speak of considering the representation dated 25.4.2005 submitted by the petitioner in pursuance of the show cause notice. Therefore, without going into merits or otherwise of the matter, I deem it appropriate to set aside the impugned order and direct the respondent to consider the representation dated 20.5.2005, submitted by the petitioners and pass appropriate order in accordance with law, after giving an opportunity to the petitioner. Till such time, the respondent is directed not to take coercive steps for demolition of the structure.

With this direction the writ petition is disposed of. No order as to

costs.

Elipe Dharma Rao, J.

July 11, 2005

Copy today.

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MAS

To

1. The Commissioner, Kapra Municipality,

R.R.District Marg.

2. 2 CD copies

3. 1 CC to MR.POLISETTI RADHAKRISHNA

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